



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/148670

PRELIMINARY RECITALS

Pursuant to a petition filed April 09, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on May 29, 2013, at Kenosha, Wisconsin.

The issue for determination is whether the Division of Health Care Access and Accountability (DHCAA) correctly denied Petitioner's request for a speech evaluation.

NOTE: Petitioner's mother asked that the record be held open until the end of the day so she could submit Petitioner's most current IEP. The IEP has been marked as Exhibit 4 and entered into the record.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: OIG by letter

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Kenosha County.

2. Petitioner is a three-year-old child with speech and language delays. (Exhibit 4; Testimony of Petitioner's mother)
3. On January 31, 2013, Children's Hospital of Wisconsin evaluated Petitioner and determined that Petitioner had speech and language delays. In part, Children's Hospital recommended that Petitioner continue with school services and have summer speech/language therapy. (Exhibit 3, pgs. 9-13)
4. On February 22, 2013, Medical Support Services conducted a speech therapy evaluation of Petitioner. (Exhibit 3, pgs. 17-21)
5. On March 1, 2013, Medical Support Services submitted, on behalf of Petitioner, a prior authorization request form, seeking payment of \$214.00 for the February 22, 2013 evaluation. (Exhibit 3, pgs. 5-8)
6. On March 12, 2013, DHCAA sent Medical Support Services a letter requesting additional information to support the need for the February 22, 2013 evaluation, given that a determination for an extended school year had not been made and inquiring whether Medical Support Services had the evaluation from Children's Hospital. (Exhibit 3, pgs. 41-45)
7. On March 15, 2013, Medical Support Services submitted its response to DHCAA, restating a need for therapy, but not explaining the need for the February 22, 2013 evaluation. (Exhibit 3, pgs. 46-50)
8. On March 27, 2013, the DHCAA sent Petitioner a notice indicating that the authorization request had been denied. (Exhibit 3, pgs. 51-54)
9. On March 27, 2013, the DHCAA also sent Medical Support Services a notice indicating that the authorization request had been denied. (Exhibit 3, pgs. 55-56)

DISCUSSION

Speech and language therapy is a Medicaid covered service, subject to prior authorization after the first 35 treatment days. Wis. Admin. Code, § DHS107.18(2).

"In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

1. The medical necessity of the service;
2. **The appropriateness of the service;**
3. The cost of the service;
4. The frequency of furnishing the service;
5. The quality and timeliness of the service;
6. The extent to which less expensive alternative services are available;
7. **The effective and appropriate use of available services;**
8. The misutilization practices of providers and recipients;
9. The limitations imposed by pertinent federal or state statutes, rules, regulations or interpretations, including Medicare, or private insurance guidelines;
10. The need to ensure that there is closer professional scrutiny for care which is of unacceptable quality;
11. The flagrant or continuing disregard of established state and federal policies, standards, fees or procedures; and
12. The professional acceptability of unproven or experimental care, as determined by consultants to the department."

Emphasis added

Wis. Admin. Code §DHS107.02(3)(e)

"Medically necessary" means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
 1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;

2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
3. Is appropriate with regard to generally accepted standards of medical practice;
4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
5. Is of proven medical value or usefulness and, consistent with s. DHS 107.035, is not experimental in nature;
6. **Is not duplicative with respect to other services being provided to the recipient;**
7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Emphasis added, Wis. Adm. Code. §DHS 101.03(96m)

Petitioner has the burden to prove, by a preponderance of the credible evidence, that the requested services meet the approval criteria.

It is the position of the DHCAA that the February 22, 2013 evaluation conducted by Medical Support Services was not medically necessary, because it was duplicative of the evaluation conducted by Children's Hospital of Wisconsin on January 31, 2013.

Having reviewed the information submitted to DHCAA by Medical Support Services, I have found no explanation for why Medical Support Services could not have relied upon the evaluation done by Children's Hospital of Wisconsin. As such, it is found that the evaluation performed by Medical Support Services was duplicative of the evaluation/service performed by Children's Hospital of Wisconsin less than a month earlier. As such, the February 22, 2013 evaluation was not medically necessary, as defined by Wis. Adm. Code. §DHS 101.03(96m).

In addition, Medical Support Services and Petitioner's mother indicated that Medical Support Services conducted its February 2013 evaluation in anticipation of providing speech services to Petitioner during the summer of 2013. This was not an appropriate or effective use of services, as required by Wis. Admin. Code §DHS107.02(3)(e), because Petitioner's abilities would likely change in the four months before summer vacation begins and so the February 2013 evaluation would no longer be accurate and Petitioner would need another evaluation. Indeed, at the May 29, 2013 hearing, Petitioner's mother testified that while Petitioner still has speech and language delays, her ability to use words to communicate with others has improved, such that she has fewer conflicts with her mother and her peers.

In summary, the February 22, 2013 evaluation was duplicative of the evaluation conducted by Children's Hospital of Wisconsin on January 31, 2013 and it was not an appropriate or effective use of resources when planning for Petitioner's speech therapy over the summer.

Petitioner's mother should note that this decision will not be sent to Medical Support Services. Petitioner's mother is encouraged to share this decision with Medical Support Services.

Petitioner's mother should also note that this decision dealt only with payment of the February 22, 2013 evaluation. If Petitioner wishes to have speech therapy services over the summer, Petitioner's provider, Medical Support Services, must submit a NEW prior authorization request for those services.

CONCLUSIONS OF LAW

The DHCAA correctly denied Petitioner's request for authorization for payment of the February 22, 2013 speech evaluation.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

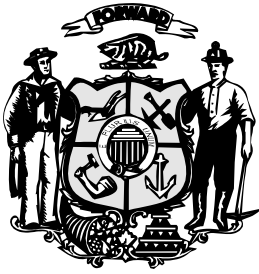
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of May, 2013

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 30, 2013.

Division of Health Care Access And Accountability